

ADDENDUM*

being comments on the draft of a proposed new constitution, with some suggested additions and amendments

[Section 1 of Draft Constitution]. *It is not enough to define the Status and Functions of the Commission by reference to another document, even if that document be the Code. The Constitution should be complete in itself. To achieve this completeness the Section needs expanding to include verbatim the whole of Chapter XVII of the Code, excluding only such parts as are irrelevant to the Constitution, as follows :—*

(1) **Article One. Name, Status and Object**

(2) **Section 1.** [Section 1, in part.] Name—The name of this organization shall be THE INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE.

(3) **Section 2.** Status—The Commission is a permanent, quasi-independent, self-perpetuating body which derives all its powers from the International Congresses of Zoology.

Article 76 of the Code, reworded.

(4) **Section 3.** Object—The object of the Commission is the centralization, discussion, and elaboration of all questions relating to zoological nomenclature.

Existing by-law, originating at Paris, 1948, cf B.Z.N. 4 : 291, 10(a).

(5) This shall include the maintenance of a code of procedure in nomenclature, and its interpretation as applied to special cases. *Suggested addition.*

(6) [Section 1, in part.] **Article Two. Duties and Powers**

(7) **Section 1.** Duties—The Commission is charged with the following duties :

(8) (a) Legislative, judicial, and general duties.

(9) (1) to consider for a period of at least one year in advance of a Congress (or for such less time as the Commission may agree) any proposal for a change in the Code ;

(10) (2) to submit to the Congresses recommendations for the clarification or modification of the Code ;

(11) (3) to render between successive Congresses Declarations (i.e. provisional amendments to the Code) embodying such recommendations ;

(12) (4) to render Opinions and Directions on questions of zoological nomenclature that do not involve changes in the Code ;

(13) (5) to compile the Official Lists of accepted, and the Official Indexes of rejected, names and works in zoology ;

* References to the By-Laws Committee's Draft Constitution are given in square brackets ; comment and explanation are printed in italics ; the remainder constitutes the amendments and additions submitted for discussion.

- (14) (6) To submit reports to the Congresses on its work ; and
- (15) (7) such other duties as the Congresses may determine. *Art. 77 of the Code.*
- (b) Editorial duties.
- (16) Subject to provisions hereinafter set forth (Article VIII) to prepare, edit and arrange for the publication or continued publication of
 - (i) Declarations, Opinions and Directions of the Commission. *Code Article 78(a) (b) and (d).*
 - (ii) The Official Lists and Indexes of Names and Works. *Code Article 78f.*
 - (iii) The "Bulletin of Zoological Nomenclature", as a vehicle for the publication of cases pending and comments thereon, decisions taken, announcements, reports, obituaries and any other matter relevant to the Commission's affairs.
- (17) **Section 2.** Powers—The Commission has the power, when an application is referred to it by any zoologist to interpret the provisions of the Code and to apply such interpretation to any question of zoological nomenclature.
- (18) (a) Declarations.—If a case before the Commission involves a situation that is not properly or completely covered by the Code, the Commission shall issue a Declaration (a provisional amendment to the Code) and propose to the next succeeding Congress adoption of this amendment in the manner prescribed in Article 87 of the Code.
- (19) (b) Opinions.—If the case in question involves the application of the Code to a particular situation, relating to an individual name, act, or publication, the Commission is empowered to render a decision, termed an Opinion, and either
 - (20) (i) to state how the Code is to be applied or interpreted ; or
 - (21) (ii) acting in the interests of stability and universality, to exempt, under its plenary powers, the particular case from the application of the Code, and to state the course to be followed. (Section 3.)
- (22) (c) Official Lists and Indexes.—Names (and works) that are accepted or rejected in Opinions shall be entered on the relevant Official Lists or Indexes, whereupon the Opinions concerned are deemed to be repealed for all except historical purposes.
- (23) (d) Directions.—Decisions completing earlier rulings, and formal instruments required under automatic provisions of the Code, are called Directions. They have the same status as Opinions.
- (24) **Section 3.** Plenary powers—The Commission is empowered to suspend the application of any provisions of the Code except those of Chapters XVII and XVIII of the Code, if such application to a particular case would in its judgment disturb stability or universality or cause confusion ; provided always that six months' notice has been given, in the *Bulletin of Zoological Nomenclature* and in two other zoological serial publications, of intention to submit an application, requesting the use of the plenary powers, to a vote of the Commission. For the purpose of preventing such disturbance and of promoting a stable and universally accepted nomenclature, it may,

under these plenary powers, annul or validate any name, type-designation, or other published nomenclatural act, or any publication, and validate or establish replacements.

- (25) Guiding principles—In exercising its plenary powers, the Commission shall be guided as follows :
- (26) (i) a name suppressed so as to validate the use of the same name published at a later date in another sense shall be suppressed for the purposes both of the Law of Priority and of the Law of Homonymy.
- (27) (ii) a name suppressed so as to validate a later name given to the same taxon shall be suppressed for the purposes of the Law of Priority but not for those of the Law of Homonymy ;
- (28) (iii) if the Commission refuses to use its plenary powers in a given case, the Opinion rendered shall specify the name(s) to be used in the case in question, and the action (if any) to be taken.
- (29) **Section 4. Exemption**—The Commission is under no obligation to search out violations of the Code, or to supplement or verify information contained in applications submitted to it, or to initiate any action within its field of competence, although it may, at its discretion, do any of these things. *Articles 78, 79, and 81 of the Code, with a change in 79. But it would seem better to transfer the detail to the By-Laws, namely: [Items 22, 23, and 25–28].*
- Section 5.** [Section 14] Emergency Powers—No comment, except to suggest that it be transferred to here.

(30) [Section 2]

Article Three. Membership

Section 2(a) [Section 2(a).] Number—*Your wording is precisely what I used—B.Z.N. 14 : 246, but I now see some minor objections. Do you not agree that the actual number at any given time will be determined by who has died or resigned and who has been newly elected ? Does it not appear that in actual practice merely the desired number will be set by the Commission, depending upon these events and upon what compelling reasons arise for electing new Commissioners ? Does it not appear a bit of unnecessary red tape to say here "by the Congress" ? Perhaps something like the following might be substituted :*

- (31) The Commission shall consist of 18 or more members as the Commission itself or the Council shall from time to time determine. They may be members of a national quota, commissioners at large, or alternate commissioners. *Certainly in voting every commissioner should be guided by paramount international nomenclatural interests. Nevertheless there are those who feel that the present system is more democratic, permitting as it does every nation where considerable zoological work is in progress to have a representative on the Commission, if it so desires. For those who think along these lines, the following paragraphs may prove an acceptable basis for consideration:—*

[Section 2(b)] Qualifications—

In order that there shall be a strong emphasis on knowledge of nomenclatural problems, one commissioner has wisely proposed the following:—

- (32) The Commissioners shall be eminent scientists with a distinguished record in any (some ?) branch of zoology, who are known to have a profound interest in zoological nomenclature, irrespective of nationality.

[Section 2(c)] Representation of Diverse Interests. *No Comment.*

- (33) **New Section.** Commissioners-at-large—The Commission on its own motion may elect individual specialists to be Commissioners, irrespective of their nationality, and not counting in their national quota.

Cf. B.Z.N. 4 : 39, 1(2). There is one commissioner-at-large on the Commission at present.

[Section 2(d)] Alternate Commissioners

- (i) *Would a different word order improve the first sentence ?*

- (34) The Commission may elect alternates from among zoologists attending the Congress temporarily to replace commissioners not in attendance at any given session of the Commission.

- (ii) *No comment.*

[Section 3]. Term of Service of Commissioners.

[Section 3a] Regular Term—

If the total number is not a multiple of 3, it becomes uncertain what action is intended. Would it not be better to revert to the provision of the current by-law, as follows, adding the words "at the close of" ?

- (35) The term of that one-third of the commissioners who have had the longest service since they were last elected shall terminate at the close of each Congress. If one-third of the commissioners is not a whole number this provision shall apply to the next highest whole number.

[Section 3b] Prior termination of Membership.

[Section 3b, i] *Obvious. Shall we not eliminate ?*

[Section 3b, ii] *An age limit is of questionable value in such an organisation and has never been in force. Certainly it is customary to terminate full-time paid employment at a fixed age. But this very release often enables active persons to devote their time, experience, and acquired wisdom to eleemosynary occupations of great service to their fellow men. Will you permit me to offer the following substitute for consideration ?*

- (36) Normally on the date of his 75th birthday ; but when a Commissioner is about to reach the age of 75, the Secretary shall poll all the commissioners, other than the one under consideration, as to whether he shall be requested to serve for the balance of his term.

[Section 3b, iii and iv] *No comments.*

[Section 4] Election of Commissioners.

Great criticism has been levied on the Commission in the past on the grounds that it is an undemocratic self-perpetuating body, and that the zoologists of the world have no voice in selecting its members. A provision has been in force since 1948 to correct this, and it has been working well. Nominations are now received for all new commissioners from leading scientific societies of their nationality, and all new elections since Paris (except two commissioners who were elected for specific purposes at Copenhagen, and one commissioner-at-large) have been chosen from such nominations. The Commissioners from Canada, Australia, Czechoslovakia, Austria, Italy, Japan, Spain, Belgium, Sweden, Russia, one from the United States, and one from England have been selected in this manner. This can only result in giving the zoologists of these countries a stronger feeling of alliance with the Commission, and of participation in its work. Would it not be disastrous

to now abandon the plan? On the contrary, should it not be strengthened by now applying it to elections on the occasion of all expiring terms? It is probably a good idea to seek 2 or more nominations for each vacancy, unless in the case of countries where there is insufficient taxonomic work in progress. But is it really useful to provide a method of electing commissioners during a congress different from that which prevails during the interims, especially if nominations continue to be received from outside the Commission? The following provisions would continue and extend the plan now in operation.

- (37) [Section 4, a and b] When a vacancy occurs in a seat on the Commission which is to be refilled within the quota of any nation, or at least one year before the tenure of the occupant of such seat is due to expire, the Secretary shall publish notice of the fact in one or more suitable journals. At the same time the Council shall invite one or more appropriate societies or institutions within the nation concerned to nominate one or more suitably qualified zoologists within the field desired who are willing to serve if elected. During interims between congresses election from among these nominees shall be made by the Council [*present plan, or*] Commission (*rule proposed by the By-Laws Committee*). If the vacancy is to be filled during the session of a Congress, election shall be by the Commission, subject to confirmation of the Congress through its Section on Nomenclature, a separate vote by ballot being taken on each name; but the latter body shall not proceed to fill any seat left vacant by reason of its rejection of an election presented to it by the Commission for confirmation. [*Should the last sentence be eliminated?*]

The chairman of your committee has written "Our Committee has no intention whatsoever to ignore the recommendations made" (actually *By-Laws* in force) "as to how the Commission should obtain nominations from institutions, national boards, and at large. However we felt that all this detail should not be placed into the Constitution, but should be spelt out in the *By-Laws*."

It is normal to include the method of electing members in the Constitution, but I should interpose no objection, if it is thought better, to have them in the *By-Laws*, only in that case, let us simply state in Section 4 of the Commission's draft "Election shall be under the provisions to be laid down in the *By-Laws*, and until these are adopted shall be subject to the provisions previously in force". The provisions of Section 4 of the draft constitution certainly indicate a very different procedure.

[Section 4c] Announcement. I suggest that this be transferred to the *By-Laws*. No provision may be entered in the Constitution that compels publication of anything in the Bulletin because the Commission has no means of assuring the continuous publication of that journal. Section 4(c) of the Draft Constitution would be acceptable if the last three words, viz. "in the Bulletin" were deleted).

- (38) [Section 5a] Duties of Commissioners.

Suggest that lead-in to Section 5(a) now "Attendance" should be "At meetings". May I suggest that in lines 4 and 5 the word "chairman" or "presiding officer" be substituted for "President or Vice-President" since it may happen that neither of these officers is in attendance?)

[Section 5b] Voting—

Suggest the lead-in here should be "Between meetings" not "Voting", since this paragraph applies solely to mail ballots (which have not been specifically

provided for). Since the second sentence does not refer to a duty, may it not appropriately be transferred to "Section 12. Voting"?

[Section 5c] No comment.

(39) [Sections 6-8] **Article Four. Officers and Council**

[Section 6] **Officers.**

Some commissioners feel that a secretary who is an officer, hence a commissioner, is essential and that he should be listed here. They consider that it will not be satisfactory to leave anything but routine matters to be handled, without supervision, by an individual who is employed by another body (the Trust), not a commissioner, and over whom the Commission has no direct control.

The Commission will obey its own By-Laws, or amend them, which it has power to do. Is not therefore the phrase "and the By-Laws permit" unnecessary?

The following is offered for consideration as an alternative to the Committee's proposal:—

- (40) The officers of the Commission shall be a President, a Vice-President, a Secretary (or Honorary Secretary), and such other officers as the Commission shall from time to time decide upon.

The mention of duties might be combined with those of the Council at a later point, or, better, be transferred to the By-Laws.

Section () [Section 7] Council.

Contrary to your committee's judgement, there are commissioners who regard it as very important that the secretary (or honorary secretary) should be a member of the Council. If so, in order to keep the number to five, there can be only one elected councillor. But if there is no living ex-president, then there should be two. If the duties of the officers are to be stated in the By-Laws, then it would seem logical for those of the Council likewise to appear there. In that case sentences 2 and 3 of Section 7 will be transferred. There will then remain the following:—

- (41) The President, Vice-President, last living ex-President, if any, Secretary (Honorary Secretary), and sufficient elected members to bring the total to five shall form a Council. *[The retiring president and all living ex-presidents may be retiring or have retired from the Commission.]*

Section (c) [Sections 6 and 7, in part] Duties of Officers and Council.

These should be specified in the By-Laws. It seems obvious that a body of five persons, presumably each living in a different nation, could not as a body exercise effectual supervision of the work of the secretariat, other than to lay down guiding principles.

Section (). [Section 8] Election of Officers and Council.

The plan of election proposed by your Committee is novel and experimental. Would it be desirable to transfer it to the By-Laws, in order that if it proves cumbersome or unworkable it can be changed without difficulty and delay?

If retained here, and if the Secretary (Honorary Secretary) is to be an officer and councillor, minor changes will be needed.

- (42) After each Congress the Secretary shall issue to each Commissioner a nomination paper containing the name of each commissioner except those of the retiring president and of the secretary (Honorary Secretary). The Commissioners shall each nominate four and only four of these names. Th

Secretary shall again submit to the Commissioners the four names which have received the highest number of votes, and have consented to serve, if elected. (The By-Laws are to establish what course is to be taken in case no four names are in the lead*)

Each Commissioner shall then vote for two and only two of these nominees. The nominee with the highest number of votes on this definitive ballot shall be the incoming President, he with the second highest vote, Vice-President, the third highest a councillor, the remaining nominee a councillor only in case of a vacancy on the Council still exists, or arises later.**

The retiring President, or if there be none, the last ex-President, if any, and the Secretary (Honorary Secretary) shall each be councillors ex-officio.

If the preceding method of electing these two officers and councillors is regarded as too cumbersome, the following might serve as a substitute:—

- (43) At each meeting of the Commission, after the election of commissioners has been completed, nominations for president, vice-president, and the requisite number of councillors, may be received from the Council, and shall be considered along with any that have been received by mail from commissioners not present or are received from the floor. Written ballots shall be taken, an affirmative majority of those present and voting being required for election.
- (44) [Section 9, *in part*] The Council shall appoint the Secretary (Honorary Secretary).
- (45) [Section 8, *in part*] Vacancies in the offices (except secretary) or Council occurring between Congresses, shall be filled by the Commission, from nominations made by the Council. But if the Commissioner who received the fourth highest number of votes on the definitive ballot above provided for is not serving as a councillor, and the vacancy is not that of an officer, he shall be the replacing Commissioner.

The last sentence only in case the first method of election is adopted.

Section (). [Section 8, *last paragraph*] Terms of Office.

Second paragraph under "Section 8" add:—

- (46) The Secretary shall hold office at the pleasure of the Council.

Section (). [Section 9] Secretariat.

The Commission can have no employee because it has no funds. If these circumstances change, suitable provisions can be entered in the By-Laws, or if necessary, by amendment to the Constitution.

Would you not agree that here would be an appropriate place for a paragraph like the one which follows, representing arrangements as now in force:

- (47) The Commission is empowered to arrange with the International Trust for Zoological Nomenclature, or a suitable equivalent body, for the employment of an assistant secretary, and such clerical staff as may be necessary to carry on its work.

*There can easily fail to be four leading names. For example when there are 18 commissioners 16 eligible for nomination (the president and honorary secretary not on the list) and 18 voting there would be 72 votes cast; these votes might fall so that 8 of the eligible names would each receive 5 votes and 8 would each receive 4 votes; or 10 might get 6 votes and 4 get 3 votes and 2 none, or 1 might get 17 votes, 10 get 5, 1 get 3, 1 get 2 and 3 get none, etc., etc.

**This vote also may fail to show first, second and third place. With 36 votes cast, 3 might get 10, one six; 4 might each get nine; 2 might get 17 each, one 2, the fourth name none, etc., etc.

(48) [Section 10]

Article Five. Committees

I assume that it is not intended to limit this power to the Council. Might we add at the end of the first paragraph the words "in an advisory capacity"? Otherwise the body is not truly a committee of the Commission, but an advisory board over which the Commission has no control.

- (49) (a) [Section 10a] The Commission or its Council, through the President, may (etc., etc.) to serve on such committees in an advisory capacity."
 (b) [Section 10b] No comment, except that this paragraph and possibly the preceding perhaps should be transferred to the By-Laws.

(50) [Section 11]

Article Six. Sessions

The policy adopted in Paris of opening the meetings of the Commission to the public for discussions was very successful. Such policy gives zoologists of the world the feeling that the Commission values world-wide opinion, does not wish to act as a secret body, and is glad to consider suggestions and comments emanating from outside its membership.

Would you agree to the wisdom of entering such a provision as follows?

"The meetings of the Commission shall be open to the zoological public, who may speak (as far as time permits), but not vote, on any subject before the Commission, or may request the Commission to open discussion on any subject (except on the resolution of particular nomenclatural cases)."

[Section 12]

Article Seven. Voting Procedure

In meetings presiding officers do not vote unless in case of a tie. Would the following be a wise provision?

- (51) Section (a). The President's vote—The President shall be required to vote on all mail ballots, but it shall require more than an even 50 per cent. of the votes cast to adopt a measure.

Section (b). Nomenclatural cases.

Some commissioners feel that votes on nomenclatural cases should be taken only by mail, since contemplation and research are impossible at a meeting. Would not the following paragraph be advisable?

- (52) (i) All opinions on nomenclatural cases shall be reached by mail ballot. This restriction does not apply to Declarations, Directions, or amendments to the Code.
 (53) (ii) [Section 12a] As is, except adding the word "postmarked" after "favour" in the centre of line 4.
 (54) (iii) [Section 12b] As is, except in line 2 adding proper reference to the Article Two, Section (b)(ii) of this draft of the Constitution, and adding a line 6 after "nomenclature" in parentheses the words "(if being currently published)".
 (55) [Section 12b], i. From supplement. The date "1758" must read "1757".

(56)

Article Eight. Financial Arrangements

Do you not agree that here is a proper place to add a very essential article along the lines that follow below. So far as I am aware no authorization has ever been given

by the Congress to the Commission to enter into the relations that now exist between it and the International Trust for Zoological Nomenclature. In the highly unlikely event that serious disagreement and conflict should ever arise between these two bodies, the Congress, through its Permanent Committee, backed by the International Union of Biological Sciences could highly censure the Commission for having entered into an unauthorised arrangement, and possibly the individual Commissioners could legally be held liable for any financial losses to which the Congresses could lay valid claim.

- (57) The Commission, when not prepared to raise or administer its own funds, may enter into a beneficent contractual relationship with the International Trust for Zoological Nomenclature, or an equivalent non-profitmaking body, by which such body undertakes, so far as possible, to raise the funds necessary for continuing the operations of the Commission, to hold, invest, and administer all funds, to hold title to all property of the Commission, to provide office working space for the Commission, to employ and pay necessary employees (but these subject to the approval of the Council) and to publish on behalf of and in the name of the Commission, material submitted for publication under the provisions of the Constitution and By-Laws of the latter. Such contract shall not permit publication of material not submitted by the Commission, other than reports, unless with the approval of the Council.

Article Nine. Enactments

- (58) **Section ().** Interpretation—All decisions shall be rigidly construed, and no deductions other than those expressly specified shall be drawn from them.
- (59) **Section ().** Review by Congress—A motion to modify or reject any nomenclatural decision of the Commission shall not be considered by a Congress, the Congresses having renounced this power.
- (60) **Section ().** Effective date—Opinions and other nomenclatural enactments of the Commission come into force immediately upon publication, unless another date is specified.
- (61) **Section ().** Declarations—A declaration remains in force until it is ratified by the next succeeding Congress or rejected; the declaration is then deemed to be repealed for all except historical purposes. If the declaration is ratified in its original or in a modified form, the Code is amended accordingly.
- (62) **Section ().** Report—Nomenclatural enactments shall be reported to the next succeeding Congress.

- (63) **Article Ten. Inauguration of this Constitution**

In order to make transition from operation under the present By-Laws to operation under a new constitution smooth and its path certain, would it not be wise to include the following article?

- (64) This Constitution and all subsequent amendments to it shall take effect at the close of the Congress at which it, or they, are ratified.
When this Constitution is ratified, all Commissioners who lose their membership

under its terms shall not do so until successors have been elected to replace them, and it shall be their duty and not that of the replacing commissioners to vote on all questions that have already been submitted to them for mail ballot. For this purpose they shall be allowed the full period of the ballot, even though their membership has attained a prior termination.

Equally all officers shall remain in office until one month after the election of their successors and of the Council has been completed. The Secretary (Honorary Secretary) and the entire Secretariat shall continue in office until the New Council has confirmed the appointment of the Secretary or replaced him, and has confirmed the continuation of other members of the Secretariat, or arranged with their appointing body for their replacement. Equally the Executive Committee shall continue to function until one month after the formation of the Council has been completed.

Article Eleven. Amendments

You will agree that the method of amending the constitution must be included and should terminate it. The following is suggested, and might well apply to both Constitution and Code.

- (65) Amendments to this Constitution become effective when, after a two-thirds affirmative vote of all Commissioners voting, they have been ratified by a majority vote of the Section on Nomenclature of the next succeeding International Congress of Zoology, or by the Congress, or by the Permanent Committee of the Congresses in case the Section on Nomenclature does not vote upon the question. In case the Section on Nomenclature refuses to ratify an amendment that has been adopted by the Commission, the Permanent Committee shall recommend to the Plenary Session of the Congress that it ratify or not ratify it, and the action of that session shall be final. Proposed amendments must be published at least nine months in advance of a vote being taken on them by the Commission. After the expiration of at least six months, a three months' ballot shall be called for; these ballots shall be counted at the next meeting of the Commission, at which time Commissioners present shall have opportunity to change their votes, and the ballots of Alternate Commissioners shall be added.
- (66) Over and above the preceding, the Permanent Committee of the Congresses, having published a proposed amendment at least six months prior to the convening of a Congress, retains the right to adopt it by a two-thirds vote of the Committee. Such an amendment thereupon becomes operative when ratified by a majority vote of the Plenary Session of the Congress, full opportunity having been given for debate from the floor.

[Section 14] By-Laws.

Do you not agree that this topic may be omitted from the Constitution? No one would question the power of the Commission to put into effect its own working rules. The new Council will simply propose them, or appoint a committee to do so when the time comes. What you have indicated as to content will be available and helpful to them, but does not seem necessary in the Constitution.